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761551N25A - SH - AD32A (2/72)- PS9-85

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE 10-10-96

OFFICE CORRESPONDENCE

FILE NO: S008694

FROM: **ARTHUR E. HERRERA, CAPTAIN**
CENTURY STATION

TO: **LEROY D. BACA, CHIEF**
FIELD OPERATIONS REGION II

SUBJECT: **RECONSIDERATION OF EXECUTIVE FORCE REVIEW COMMITTEE'S FINDINGS AND RECOMMENDATIONS - NON-HIT SHOOTING, JANUARY 3, 1995, IAB INVESTIGATION #008694**

After extensive review of the investigative package covering this non-hit shooting, I can not agree with the findings of the Force Review Committee. I base my conclusion on an analysis of the evidence which may not have been available to the reviewing commanders. **Specifically, that the suspect's vehicle's drive characteristics and its** positioning on the lawn and on the sidewalk strongly support the deputies' version of events, not the suspect's. For example,

- The Toyota Camry *can not* be placed in reverse (backup lights coming on and tires breaking traction) except through the deliberate actions of the driver (suspect).

  Investigation photos show that the left front tire of the Camry, which is a front-wheel drive vehicle, lost traction. A Toyota expert stated that **it would** be "impossible to have the left-front wheel **loose** traction **without acceleration**."

- Photos show that there was a change of direction of the Toyota from its position on the lawn near the front of the house at [redacted] Broadway and its final position against the deputies' car. The Toyota had been driven backwards and the steering wheel turned to the right. Such movement could only have be done if the suspect remained *in* the car.

In its present form, the Review Committee's conclusion that the shooting violated M.P.&P. section 3-01/030.30 may not withstand Civil Service/judicial review.

I recommend that the Force Review Committee request additional inquiry by Internal Affairs Bureau investigators into this information. I also recommend that staff of the Advocacy Unit review the Force Review Committee's conclusion and recommendation.

CONTENTS J. ANDA NOTED

10-18-96

CONTENTS W.R. MANGAN NOTED

Return to OEAB for Rehearing by Force Review after further investigation

COUNT[?] LOS ANGELES - SHERIFF'S [?]RTMENT
INCIDENT DATA

WHAT INITIATED INCIDENT

Call [ ] Observation [X] Search Warrant [ ] Arrest Warrant [ ]

LOCATION OF OCCURRENCE

[redacted] Broadway, Walnut Park

TYPE OF LOCATION

Residence [ ] Business [ ] Industrial [ ] Parking Lot [ ]

Street [X] Backyard [ ] Freeway [ ] Rural [ ]

Other [X] Driveway

SHOOTING CONDITIONS

DATE	TIME	DAY
January 3, 1995	2250	Tuesday

LIGHTING

Street lights on south side of street. Residence at [redacted] had a bright floodlight on over the driveway.

WEATHER

Cool, had rained earlier in the day.

DISTANCE

Fifteen to twenty feet.

CONTRIBUTING FACTORS

Vehicle which was fired at, and struck from behind, had tinted windows. See narrative for further.

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

DEPUTY INVOLVED

SHOOTER

EMPLOYEE'S NAME		
PERRY, Jeffrey		

RANK	EMPLOYEE NO.	UNIT AND DIVISION / REGION OF ASSIGNMENT
Deputy	[redacted]	F.O.R. II/Century Facility

SEX	RACE	HEIGHT	WEIGHT	DATE OF BIRTH	AGE
M	White	5'11"	220	[redacted]	[redacted]

DUTY STATUS	HIRE DATE
Continuing on duty	01-18-88

UNIFORM	RAID JACKET	PLAIN CLOTHES	VEST
Yes	No	No	Yes

INJURED	DECEASED	CORONER'S CASE NO.
No	n/a	n/a

DESCRIPTION OF INJURIES
n/a

WAS THE DEPUTY IMMEDIATELY REMOVED FROM THE SCENE? YES [ ] NO [X]

WAS THE DEPUTY SEQUESTERED PRIOR TO THE INTERVIEW? YES [ ] NO [X]

WHERE?

SUPERVISED BY:

WEAPON USED

TYPE	AUTHORIZED
Beretta 92F	Yes

AMMUNITION TYPE	AUTHORIZED
9mm	Yes

RANGE QUALIFICATION (LAST DATE)	NO. OF ROUNDS FIRED BY DEPUTY	NO. OF HITS
[redacted]	Two (2)	0

DEPUTY'S TOXICOLOGY

UNDER THE INFLUENCE	TEST FOR CAUSE ORDERED	ORDERED BY
No	No	n/a

TRAINING INFORMATION

LASER VILLAGE TRAINING (LAST DATE)	PRACTICAL POLICE COURSE (LAST DATE)
[redacted]	[redacted]

ASSIGNMENT HISTORY

DATE	UNIT OF ASSIGNMENT	RANK
01-22-88	Law Enforcement Intern	Intern
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
11-22-92	Century Facility	Deputy

PRIOR SHOOTING INCIDENTS (ALL KNOWN INCIDENTS WHERE DEPUTY HAS DISCHARGED A WEAPON INCLUDING ACCIDENTAL DISCHARGES AND SHOTS FIRED AT ANIMALS OR HUMANS)

FILE	DATE	TYPE
[redacted]		

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

DEPUTY INVOLVED

SHOOTER

EMPLOYEE'S NAME		
[redacted]		

RANK	EMPLOYEE NO.	UNIT AND DIVISION / REGION OF ASSIGNMENT
[redacted]	[redacted]	[redacted]

SEX	RACE	HEIGHT	WEIGHT	DATE OF BIRTH	AGE
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

DUTY STATUS	HIRE DATE
[redacted]	[redacted]

UNIFORM	RAID JACKET	PLAIN CLOTHES	VEST
Yes	No	No	Yes

INJURED	DECEASED	CORONER'S CASE NO.
No	n/a	n/a

DESCRIPTION OF INJURIES
n/a

WAS THE DEPUTY IMMEDIATELY REMOVED FROM THE SCENE? YES [ ] NO [X]

WAS THE DEPUTY SEQUESTERED PRIOR TO THE INTERVIEW? YES [ ] NO [X]

WHERE?

SUPERVISED BY:

WEAPON USED

TYPE	AUTHORIZED
Beretta 92F	Yes

AMMUNITION TYPE	AUTHORIZED
9mm	Yes

RANGE QUALIFICATION (LAST DATE)	NO. OF ROUNDS FIRED BY DEPUTY	NO. OF HITS
[redacted]	Five (5)	0

DEPUTY'S TOXICOLOGY

UNDER THE INFLUENCE	TEST FOR CAUSE ORDERED	ORDERED BY
No	No	n/a

TRAINING INFORMATION

LASER VILLAGE TRAINING (LAST DATE)	PRACTICAL POLICE COURSE (LAST DATE)
[redacted]	[redacted]



DEPUTY INVOLVED
Continued



ASSIGNMENT HISTORY

DATE	UNIT OF ASSIGNMENT	RANK
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

PRIOR SHOOTING INCIDENTS (ALL KNOWN INCIDENTS WHERE DEPUTY HAS DISCHARGED A WEAPON INCLUDING ACCIDENTAL DISCHARGES AND SHOTS FIRED AT ANIMALS OR HUMANS)

FILE	DATE	TYPE
007033	03-01-94	On-duty, hit shooting -- suspect deceased.
007226	04-11-94	On-duty, no hit shooting.

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

CLASSIFICATION

ACCIDENTAL:	No
GUN TAKE-AWAY:	No
PERSON(S) ARMED:	None
PERSON(S) UNARMED:	One
STARTLE:	No
UNINTENTIONAL:	No
DEPUTY IN UNIFORM:	[X] RAID JACKET: [ ] PLAIN CLOTHES: [ ]
VEST WORN:	Yes
FOOT PURSUIT:	No
VEHICLE PURSUIT:	Yes
MOVING VEHICLE:	Yes
VEHICLE STOP:	Yes
TYPE OF HOLSTER:	Department issue
GUN IN HOLSTER:	No
STRUGGLE INVOLVED:	No

ADDITIONAL FACTS AND INFORMATION:

See Narrative

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

SUSPECT/SUBJECT

LAST NAME	FIRST NAME	M/I
SANCHEZ	**Jose**	**M.**

ADDRESS
[redacted]

SEX:	RACE	HEIGHT	WEIGHT	D.O.B.	AGE	DECEASED
Male	**Hispanic**	**5'09"**	**180**	**07/29/73**	**22**	**No**

INJURED	DESCRIPTION OF INJURIES
Yes	**Abrasions to face**

SUSPECT'S TOXICOLOGY

UNDER THE INFLUENCE
No

TYPE OF SUBSTANCE	LAB TEST CONDUCTED
n/a	**n/a**

ARMED	TYPE OF WEAPON
No	**n/a**

NUMBER OF SHOTS FIRED BY SUSPECT	NUMBER OF HITS
None	**n/a**

SUSPECT VEHICLE
1995 Toyota Camry (stolen)

CRIMINAL HISTORY (ATTACH COPY OF RAPS)
See attached

SUMMARY OF INCIDENT
See Summary

LOS ANG___ES COUNTY - SHERIFF'S D___RTMENT

WITNESS LIST

SWORN AND DEPT EMPLOYEES TO INCLUDE NAME, RANK, EMPLOYEE NUMBER, UNIT, AND DIVISION/REGION OF ASSIGNMENT - ALL OTHER WITNESSES TO INCLUDE NAME, ADDRESS (BUSINESS AND HOME) AND TELEPHONE #
WITNESS # 1  [redacted] **was interviewed on January 25, 1995, at 1850 hours by Sergeants Dunkle and Shivelyof the Internal Affairs Bureau. The interview was tape recorded.**
WITNESS # 2  [redacted] **was interviewed on January 25, 1995, at 1905 hours by Sergeants Dunkle and Shively of the Internal Affairs Bureau. The interview was tape recorded.**
WITNESS # 3  [redacted] **was interviewed on September, 1995, at 1907 hours by Sergeants Dunkle Shively of the Internal Affairs Bureau. The interview was tape recorded.**
WITNESS # 4  [redacted] **was interviewed on January 3, 1995 at 0500 hours by Sergeants Dunkle and Shively of the Internal Affairs Bureau. The interview was not tape recorded.**
NOTE: THIS LIST ONLY CONTAINS THOSE WITNESSES PERSONALLY INTERVIEWED BY I.A.B. INVESTIGATORS. SEE ATTACHED REPORTS AND DOCUMENTS FOR POSSIBLE ADDITIONAL WITNESSES.

INVESTIGATIVE SUMMARY

CASE NUMBER IAB 008694

On January 3, 1995, Deputies Jeffrey Perry and [redacted] were involved in a non-hit shooting at the end of a short vehicle chase. They were in an unmarked car, and were not in pursuit during the chase. The suspect, Jose Sanchez, was driving a green, 1995 Toyota Camry which had been stolen earlier in the evening during a residential robbery. After a short distance, Sanchez drove the car into a driveway, across a lawn, and stopped it against a house. The Camry then backed toward where the deputies had stopped their car; this is when the shooting occurred. Both deputies wrote memorandums regarding the shooting (See Exhibit "A") and field reports were also written (See Exhibit "B"). Deputy Perry's statement was used as a basis for this Summary. Deputy [redacted] has not been interviewed.

Subject Perry said he and Deputy [redacted] were parked in an unmarked police car maintaining a surveillance on two vehicles which had been stolen in a residential robbery earlier in their shift. The vehicles, a green 1995 Toyota Camry, and a Chevy Silverado pick-up truck were parked on the north side of Cudahy Street, facing west. Perry said they were over 100 yards away and also facing west. He said there had been four suspects in the robbery, and he believed each of them was armed.

Subject Perry said he saw a white car, which he later recognized as Camry, pull alongside the green Camry and stop. Perry said there were people moving about and the two cars then made u-turns and left. He said the green Camry drove past them with the white Camry behind it. Perry said when the two cars drove past, they did not see how many suspects were in either car because he and [redacted] leaned over in their seats so as not to be seen by the suspects. He said they made a u-turn and began following the suspects, simultaneously broadcasting via radio they were doing so.

Subject Perry said as they followed the two cars, they wanted to stop the green Camry because it was a confirmed stolen car. He said the white Camry was swerving so as to make it impossible for them to pass it. Perry said after a short distance at high speeds, the two cars turned west onto Broadway. He said as they drove west on Broadway, they were about two to three car lengths behind the white Camry and a farther distance (the width of a few houses) behind the green Camry. Perry said the green Camry turned in the driveway of an address [redacted] or [redacted] houses west of Southgate Blvd. ([redacted]) Broadway and the white Camry continued westbound without stopping.

Subject Perry said the green Camry entered the driveway at a 45 degree angle and drove across the lawn of the residence. Perry said the Camry continued driving across the lawn and planter of that residence and stopped at the house. He said he stopped their car at the mouth of the same driveway the Camry had entered, approximately 25-30 feet away from where the Camry stopped.

Subject Perry said he got out the driver's door and [redacted] exited via the passenger's door. He said he pointed his service weapon, identified himself as a deputy sheriff and ordered the driver to put his hands up. [redacted] was also giving commands to the occupants. Perry said he had not been able to see how many suspects were in the Camry when it originally drove past them on Cudahy Street and now, since the Camry's windows were so darkly tinted, he still could not tell.

Subject Perry said after a few seconds, the Camry's reverse lights came on and the car began backing toward them, its front tires spinning slightly. Perry said he was startled when the Camry began backing toward them. He said he thought the car was coming at them in an attempt to hit him or [redacted] and kill them.

Perry said the Camry had a clear avenue of escape to the west, but did not take it. He said the Camry was backing fast enough that it would have seriously hurt or killed them if struck and he believed the driver was attempting to assault them.

Subject Perry said the Camry was about 10 feet away and he knew it was not going to turn and go (forward) west. He said he fired twice at where the driver would be inside the Camry. Perry said he did this to disable the driver and stop the car so it would not hit him or [redacted] He said [redacted] fired what he later learned was five shots into the Camry. He said he believes his rounds entered the left "C" pillar area of the Camry (See Exhibit "C").

Subject Perry said he did not move away from his vehicle as the Camry backed toward them because he did not want to leave his cover, given that multiple armed suspects may have been inside. He said the Camry continued backing and struck the front of their vehicle, which caused him to be knocked backward from his position in the door opening. Perry said after the Camry struck their vehicle, [redacted] said they should move to the back of their car.

Subject Perry said the Camry was now 10-15 feet away and they were still unsure how many occupants were inside. He said he was aware that the suspects had committed a violent home invasion robbery and were armed, and he believed he would be engaged in a gunfight. Perry said he decocked and then cocked his pistol's safety as trained. He said he then went to the rear of the police car to reassess the situation and gain distance between him the Camry should the suspect exit. Perry said he and [redacted] had previously agreed not to split from each other during a foot pursuit.

Subject Perry said once at the back of the car, the Camry's driver door opened, the suspect got out and looked toward them. He said the suspect made no movement toward them, but "bear crawled" away from the car. Perry said he could see the suspect holding his hand against his body, as if he were holding a gun, although he did not see one. He said as the suspect crawled to the front of the Camry he slipped and nearly fell; he then ran away north toward the houses. Perry said he did not shoot at the suspect because he did not perceive him as a threat as it seemed he was trying to escape. He said they did not chase the suspect because they did not know if someone in the car had been shot, if there were armed suspects inside, and they had planned not to split from each other.

Subject Perry said at this point they did not know how many suspects were still inside the Camry or if anyone inside it had been hit by their rounds. He said because of that and because there were still possibly armed suspects inside the Camry, they waited for back-up units to arrive and then cleared the car. They found no additional suspects.

Subject Perry said he does not recall the suspect trying to get out of the Camry or its door opening prior to the impact. He said the suspect got out of the car after the collision and not before.

Witness (Suspect) Jose Sanchez said he got the green Camry from a friend named "Julio" (Suspect Julio Zermeno). He does not know Julio's last name, although he has known him for the last year.

Witness Sanchez said he drove the green Camry west on Cudahy Street with Julio behind him in the white Camry. Sanchez said he was the only occupant of the green Camry. He said he saw a "narc" make a u-turn behind him so he "punched it more" and eventually turned left onto Broadway. Sanchez said at one point, the deputy passed Julio's car and got behind him. Sanchez said he then turned into a driveway, got out, and ran away to avoid capture. He said he knew the car was stolen, and how it was stolen, and did not want to get caught.

Witness Sanchez said when he drove into the driveway, he was going "kinda' fast" and drove the car onto the lawn of the house next door. Sanchez said he stopped the car, but is not sure if he put it in "Park" and then got out. He said he slipped on the grass and fell in mud and then began running without looking back. Sanchez said he did not put the car in "Reverse", but possibly "Neutral." He said he did not accelerate backward toward the deputies and could not explain how the car got from where he stopped it to where it collided with the Sheriff's vehicle.

Witness Sanchez said when he drove into the driveway, the patrol car was right behind him and the deputies saw him get out and run. Sanchez said one deputy told him to "freeze" but he did not turn back and he then heard the shots. He said he did not have a gun with him, but was running with his hat in his hand. Sanchez said he was going over the fence, he heard at least six to eight being fired behind him and he thought his friend Julio was being shot at because Julio had been behind him (when they were driving).

Witness Sanchez said after jumping several gates and avoiding two dogs, he went two or three blocks away where he laid in the bed of a pickup truck and covered himself with carpet. He was later found and captured.

Witness Sanchez said he did not injure himself while going over the gates and his facial injuries occurred as he was moving on the ground while being handcuffed. Sanchez said he was "okay" and had no injuries other than the abrasion to his face.

Both suspects Sanchez and Zermeno pled guilty and were sentenced to six years in state prison.

Five neighborhood witnesses were interviewed; none of them witnessed the shooting,